

**CITY OF EL PASO, TEXAS  
AGENDA ITEM  
DEPARTMENT HEAD'S SUMMARY FORM**

**DEPARTMENT:** Planning and Economic Development  
**AGENDA DATE:** May 3, 2011  
**CONTACT PERSON/PHONE:** Kathy Dodson, PhD, Director 541-4670  
**DISTRICT(S) AFFECTED:** All

**SUBJECT:**

Discussion and action on a resolution to approve the creation of the City of El Paso Economic Development Incentive Policy for Energy-Related, Targeted Growth and Investment, and/or Technology Development Projects for the purpose of job creation, attracting and retaining alternative energy companies, and developing a sustainable Alternative Energy Cluster in the city.

[Planning and Economic Development, Kathryn B. Dodson, (915) 541-4872]

**BACKGROUND / DISCUSSION:**

The purpose of this policy is to create jobs, attract and retain alternative energy companies, and develop a sustainable Alternative Energy Cluster in El Paso. The City of El Paso, through the implementation of this policy, shall endeavor to accomplish the following strategic objectives: provide incentives for new commercial users with high electric energy needs; attraction of companies that will make significant investment of capital and human resources in the community; solar and other renewable energy rebates or incentives; increase the City's capacity in alternative energy research, development, manufacturing, and generation; and other economic development purposes as reasonably determined by the City. The funds available to achieve these strategic objectives come from El Paso Electric Franchise Fee Increases.

**PRIOR COUNCIL ACTION:**

On November 16, 2010 City Council approved amending Ordinance 16090, which granted a franchise to El Paso Electric Company, to increase street rental charges under the condition that the increased fees be used for economic development purposes.

**AMOUNT AND SOURCE OF FUNDING:**

Approximately \$4.5 M; restricted fund as described in Ordinance 17460.

**BOARD / COMMISSION ACTION:**

On April 7, 2011 the Economic Development, Planning and Tourism LRC approved bringing this item forward to City Council.

\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**DEPARTMENT HEAD:**

*Kathy Dodson for Kathy Dodson, Director*  
\_\_\_\_\_  
Department Head

## RESOLUTION

### BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Council approve the creation of the "City of El Paso Economic Development Incentive Policy for Energy-Related, Targeted Growth and Investment, and/or Technology Development Projects" as recommended by the Director of the Planning and Economic Development Department, with the policy being attached hereto as Exhibit "A".

APPROVED this the \_\_\_\_\_ day of \_\_\_\_\_, 2011.

THE CITY OF EL PASO

\_\_\_\_\_  
John F. Cook  
Mayor

ATTEST:

\_\_\_\_\_  
Richarda Duffy Momsen  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Marie A. Taylor  
Assistant City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Kathryn B. Dodson, Ph.D., Director  
Planning and Economic Development

# EXHIBIT A

## City of El Paso Economic Development Incentive Policy for Energy-Related, Targeted Growth and Investment, and/or Technology Development Projects

### SECTION I. PURPOSE

It is the policy of City of El Paso to provide incentives to selected private businesses that make a **measurable** difference in achieving economic growth and development, expanding and diversifying the tax base and creating new quality jobs within the City of El Paso.

The purpose of this policy is to create jobs, attract and retain clean energy companies, and develop a sustainable Clean Energy Cluster in El Paso.

### SECTION II. STRATEGIC OBJECTIVES & BUDGET

The City of El Paso, through the implementation of this policy, shall endeavor to accomplish the following strategic objectives:

1. Provide incentives for new commercial users with high electric energy needs
2. Attract of companies that will make significant investment of capital and human resources in the community
3. Provide solar and other renewable energy rebates or incentives
4. Increase the City's capacity in clean energy research, development, manufacturing, and generation
5. Other economic development purposes as reasonably determined by the City

The funds available to achieve these strategic objectives come from El Paso Electric Franchise Fee Increases. The award amounts are calculated by multipliers, but City Council, at its discretion, may choose to award a higher amount for companies that have a truly significant scope or impact on the El Paso economy, and meet one or more of the following criteria:

1. \$25,000,000.00 capital investment,
2. 500 or more quality jobs created, and/or
3. Development and commercialization of a transformational technology.

*The City of El Paso is under no obligation to approve any requested incentive and no right to these incentives is either intended or implied.*

## Definitions

Alternative Energy Producer - Companies who generate electricity in the City of El Paso through alternative means.

Clean Energy - Clean energy involves products and services that reduce negative environmental effects such as greenhouse gas emissions. They also promote, enhance or advance: the diversity of renewable sources/transmission of energy such as solar, wind, biomass, geothermal, tidal, bio-fuels and hydro-technologies; energy efficiency, conservation and demand response such as smart grids, power electronics, waste-to-energy systems, solid-state lighting, advanced materials, green retail and green buildings; environmental control and integrated system technologies such as cleaner use of coal, more environmentally friendly oil recovery methods, CO2 sequestration, wastewater, recycling, remediation and nuclear energy; and energy storage such as battery storage, compressed air energy storage, plug-in hybrid electric vehicles and associated infrastructure.

Cluster - Clusters are geographic concentrations of interconnected companies, specialized suppliers, service providers, and associated institutions in a particular field that are present in a nation or region.

Full-time employees - Employees working at least 35 hours per week and eligible to receive health benefits.

High Energy User - A company whose electricity usage is 800 kW or more electricity per year, with a high-load factor (in excess of 70%). A high-load factor customer can be defined as any customer that operates at a level significantly in excess of El Paso Electric system load factor and/or using power in off-peak periods. An example of using power in off-peak periods would be when a high energy user shuts down or reduces the load during summer peak period (12 pm – 8 pm Monday – Friday, June to September).

Investment - Expenditures made by company, including those made on capital improvements, equipment, and personal property (furniture and fixtures). Investment does not include real property acquisition or inventory.

Leadership in Energy & Environmental Design (LEED) - Internationally recognized green building certification system, providing third-party verification that a building or community was designed and built using strategies intended to improve performance in metrics such as energy savings, water efficiency, CO2 emissions reduction, improved indoor environmental quality, and stewardship of resources and sensitivity to their impacts. Developed by the U.S. Green Building Council (USGBC), LEED is intended to provide building owners and operators a concise framework for identifying and implementing practical and measurable green building design, construction, operations and maintenance solutions.

Non-Targeted Industry - A company whose activity is not on our targeted list but meets criteria as a Qualifying Project

Payroll - The total salaries paid to full-time employees in any given year.

Qualifying Project – A qualifying Project is one in which **more than 50% of all jobs** at the company's El Paso location **pay at or above the County Median Wage**. In addition, the overall average wage must be above the County Median Wage, and the company must pay for a minimum of 50% of the employee's health care benefit. The City may modify these criteria in the event a project meets one or more of the other strategic objectives outlined in this policy.

Target Areas – Downtown 2015 Plan Area and Medical Center of the Americas Plan Area

Targeted Industries - Military Defense & Homeland Security, Life Sciences, Automotive, Clean Energy, Advanced Manufacturing.

Target Industry Small Business- For purposes of this policy, a small business is one which at time of application, employs 25 or fewer full time employees in one or more of the defined target industries, and is engaged in research, development and/or manufacturing at its El Paso location.

Transformational Technologies - Technological innovations that radically transform a product or service in ways that the market does not expect, typically by lowering price, improving technology performance and usability, and/or displacing an existing technology.

### **SECTION III. GENERAL QUALIFICATION CRITERIA**

The City of El Paso may provide incentives for any business or commercial development project if the project meets the following criteria:

1. Meet one or more of the strategic objectives and show a clear demonstration of public purpose and economic benefit through advancement of the City's economic goals which include expanding the tax base, creating quality jobs, increasing private capital investment in the community, spurring development in targeted City locations; or encouraging development of targeted businesses or clusters desirable to enhance the City's economy;
2. Include solid evidence provided by the business that demonstrates the business's financial stability and capacity to complete the project;
3. Be in compliance with all local, state and federal laws.
4. Meet the definition of Qualifying Project.
5. Create an El Paso, Texas business entity with a physical presence in El Paso or agree to establish a physical presence in El Paso within six months of the execution of an economic development incentive agreement. Incentives will only be granted for investment and jobs created within the city of El Paso.
6. For target industry high energy user, a minimum of 50% of the grant must be used to reimburse company for cost related to :
  - a. Adhering green building practices defined by LEED or alternative criteria.
  - b. Increasing energy efficiency of the project.

The business, in order to receive any incentives from the City of El Paso, will make available credible information, including but not limited to capital investment and employment projections, to enable the City to prepare a fiscal impact analysis. The recipient will provide the City with an annual update of this information after business operations have begun. The decision to provide any economic development incentives will be considered on a project-by-project basis, in accordance with the criteria set forth in this policy, and at the discretion of the City Council of the City of El Paso. If the business wants City Council to consider awarding an amount higher than cap by meeting the "transformational technology" criteria, the business product will be vetted by a technology panel (to include faculty from UTEP, Texas Tech and other qualified experts as needed).

**SECTION IV. JOBS AND INVESTMENT GRANTS (City of El Paso Option)**

An economic impact analysis will be conducted by the Economic Development Department on every project considered for incentives. The delivery mechanism of choice for incentives will be the Chapter 380 agreement; however, the City reserves the right to use any other source (City, State, Federal, Foundation, etc.) in the award of incentives.

Agreements may be conditioned on the completion of specific improvements to real property and/or job numbers and salaries levels being met. The Agreements shall contain recapture clauses in the event that such conditions are not met. Grants contracts are available for a maximum of five years.

In order to be eligible under this section, a company must first establish eligibility under Section III. Companies must also provide the city with a positive return on investment, unless the City Council chooses to waive these requirements to encourage development of a clean energy cluster. All grant payments may be subject to recapture if contract terms are not met.

Incentives will be available in the following general categories:

- |   |                  |
|---|------------------|
| 1) Non-Targeted Industries  | Multiplier of 1  |
| 2) Target Industry  | Multiplier of 2  |
| 3) Target Industry High Energy User<br>or Alternative Energy producer | Multiplier of 3  |
| 4) Target Industry Small Business                                     | Multiplier of 10 |

**Amount of Grant**

The yearly grant amount will be derived by a simple formula and expressed as follows:

$$\text{Basic Grant} = (\text{Yearly Payroll} + \text{Investment}) * .0025 * \text{Multiplier}$$

The basic grant amount will be increased by 0.5% for every R&D qualifying job, as defined by the IRS tax code.

Calculation of the grant for companies qualifying for a bonus is:

$$\text{Basic Grant} + \text{Bonus} = \text{Total Grant}$$

## **SECTION V. EMERGING OR START-UP TECHNOLOGY DEVELOPMENT / UNIVERSITY COLLABORATION GRANT**

Companies with technologies developed with the collaboration of regional universities (UTEP, NMSU, Texas Tech, Tec de Monterrey, etc.), institutes of higher education, and/or national laboratories will be eligible for incentives contingent upon a signed agreement to remain within the City of El Paso for a period of five years. Money may be used for concept development and testing, prototype development, or pilot production. Technologies must have been reviewed and approved by university personnel, a private capital source (angel group, venture capitalist, etc), a technology development entity or private service providers (Innovate El Paso, BNSL, etc.).

### **Qualifications**

Investments may be given only to duly qualified corporations that meet the following criteria:

- Company is less than 2 years old and no more than 5 full-time equivalents.
- Headquarters or primary operations (including subsidiaries) in El Paso, Texas. Must be an LLC or C-corp, or S-corp if funding is approved.
- Use of funds must advance the commercialization of the technology (e.g., design, testing, prototyping, customer discovery).
- The technology or product has potential to positively enhance the region's economic development efforts.

### **Criteria**

- Incentive investment may not exceed \$25,000.
- A company may seek a second investment, but must have an outside match.
- Progress payments will be based on deliverables
- Awardees must spend the investment money in support of advancing the commercialization of the proposed technology, service or product.
- Funds must be used within one year of grant approval.
- Investment cannot be used to repay debt or previous amounts owed to any stake holder prior grant approval (award)
- Overhead and/or administration expenses from regional universities, institutes of higher education, and/or national laboratories are capped at 10% of the grant.

## **SECTION VI. REVOLVING LOAN FUND**

The City of El Paso will seek to leverage funds from various sources with the intent to create a revolving loan and grant fund which includes a loan loss reserve. Potential sources include SBA 7(a) loan funds, tax credit financing, and existing State and City incentive programs. The purpose is to provide life cycle financing (pre-seed, seed, mezzanine, expansion, large stage) for businesses in target industries.

## **SECTION VII. OTHER ECONOMIC DEVELOPMENT USES**

The City of El Paso may, at City Council discretion, choose to fund other activities in support of the development of target industry clusters. Such uses include but are not limited to technology testing and evaluation centers, technology business incubators, and technology business accelerators. Such funding will be contingent upon City Council approval of the following:

- Organizational structure
- Business and / or operational plan
- Technological and business background of executive and key personnel
- Performance metrics and deliverables
- Business and/or operational plan

## **SECTION VIII. DOWNTOWN & MCA AREA INVESTMENT GRANT**

The City of El Paso may, at City Council discretion, choose to fund other activities in support of the redevelopment of the 2015 Downtown El Paso (the area defined by Ordinance 061487 as the Downtown Plan Area) and the Medical Center of the Americas Study Area (defined by Ordinance 01701) All uses will be considered. Projects will be evaluated on their ability to improve the economy and redevelopment prospects of these areas. Such evaluation criteria are:

- Investment Level
- Significant Impact
- Experience and Financial Capacity of the Applicant
- Performance Metrics and Deliverables

**If a company qualifies for a Jobs and Investment Grant under Section IV, the amount of that grant will be increased by 50% if located in the Downtown 2015 or MCA plan areas.**

## **SECTION IX. APPLICATION**

Applications must be made through the City of El Paso's Planning and Economic Development Department.

## **SECTION X. TERM OF INCENTIVES**

These guidelines and criteria shall apply upon adoption by resolution of City Council and shall remain in effect with applicable amendments from time to time until August 31, 2015.

## EXHIBIT A - 1 (REDCo Option)

### SECTION IV. FISCAL IMPACT ANALYSIS & INCENTIVE CALCULATION

Assuming that the "general qualification criteria" has been satisfied, an analysis will be conducted to determine the project's direct, indirect and induced fiscal impacts on revenues of the City. To assist the City in this analysis, the business must provide credible information, including but not necessarily limited to, projections on capital investment, employment, wages, employee benefits and electric use. The "electric use" analysis will include an assessment of the project's electric demand, utilization, and load factor.

The "Impact Fund" can be used in combination with other financial inducement programs, including but not limited to the City's "Section 380 Grant program". Projects which qualify for financial incentives from both "Section 380" and the "Impact Fund" will result in positive net revenues to the City, unless the City determines in its sole discretion, that the project excels in both "strategic" and "unique" value as described below. City staff will utilize a project scoring tool (see attached excel spreadsheet) to assess how each project

#### Basic Grant:

The basic grant offered to a company will be 25% of the revenues identified upon completion of the fiscal impact analysis described above. Note: When we ran the City's proposed formula (Capital Investment + Payroll x 0.0025) for 15 different REDCo clients, the basic grant as a percentage of the total revenue impact per project ranged from a low of 19.9% to a high of 29.4%. The average was 25.5%. See Chart 3

#### Potential Additional Grant Based on Strategic Value: See Chart 5

A company may be eligible to receive additional financial inducements beyond the "basic grant" defined above. The offer of such additional incentives will be wholly dependent upon the project's performance relative to one or more of the following strategic objectives:

1. Project is classified within one of the target industries previously described in this policy. This is straightforward. If project falls within a target industry, then it is eligible.
2. Project defined as a "high energy user" and has the potential to contribute to improvement of the city's electric system load factor. Potential "excellence" criteria would be projects with load profiles that are greater than the current electric system load factor at time of incentive negotiation. Current electric system load factor is 56.7%. The higher the load factor, the higher the potential incentive.
3. Project is proposed by an alternative/renewable energy company which may help El Paso achieve its goal of becoming a global leader in renewable or alternative energy development by introducing innovative technologies that enhance or have the potential to enhance capacity factors, operational efficiency, and/or achieve lower generation costs. (Excellence criteria could be based on comparison data from NREL and/or other sources for installed cost, capacity factor, and O&M costs. This could establish baseline comparisons. See Chart 5. If El Paso leads in innovation/cost reduction, we can achieve global preeminence in the sector. Would also recommend that we adapt a parallel policy that offers up to 100% property tax exemptions for R&D equipment and clean rooms)

4. Projects which make investment projects that will significantly expand the industrial/commercial tax base of the City. For the purpose of this incentive program, high capital investment projects are those with at least \$20 million. The target is equivalent to the state criteria established in the Texas Tax Code, Chapter 313 for determining minimum capital investment for a school district in El Paso County to offer financial inducements.

5. Quality jobs criteria including:

- a) Number of jobs above the baseline criteria Baseline excellence criteria could be projects which create at least 50 jobs at or above ACW (currently \$16.37/hour); or at least 100 jobs at or above MCW (currently \$12.22/hour)
- b) Concentration as a percentage of the overall project Baseline excellence criteria could be projects with at least 40% of jobs in the project's manning table pay at or above ACW (currently \$16.37/hour); or at least 60% of jobs pay at or above MCW (currently \$12.22/hour)
- c) The wage differential of eligible jobs above the Median County Wage. The higher the differential, the greater the financial inducement

Potential Additional Grant Based on Unique Value See Chart 6

The City may offer additional incentives for projects which meet one or more of the following criteria:

1. Project is deemed to have strategic value in terms of other industries or companies that *it* might attract due to the nature and scope of the service and support functions added to the community. Occasionally, REDCo works with a unique supplier that may enhance the ability to attract other companies to the region. Some examples include metal heat treating, metal plating, vacuum metalizing, analytical labs, etc...

2. Project provides a total benefits package to all full-time employees which meets or exceeds existing industry norms for El Paso.

We have paid for survey data *in* the past that demonstrates industry norms in El Paso relative to health care and other benefits. See chart 7. This allows us to compare the practices of the project being considered for incentives vs typical local practices. For example, companies which provide higher value health coverage to its employee by providing benefits that exceed the basic health care coverage defined in this policy and/or by paying a higher amount of the health care premium will receive higher scores.

3. Project proposes to introduce technological innovations that have the potential to radically transform a product or service in ways that the market does not expect, typically by lowering price, improving technology performance and usability, and displacing an existing technology.

4. Project locates in a target area of the community as defined in Section III of this policy.

5. Project includes establishment of a headquarters and/or research and development (R&D) operation.

6. Project incorporates "green" elements which may include one or more of the following:

- a) Green building design practices defined by LEED or equivalent

b) Increasing energy efficiency of the project by introducing design elements that will shave peak demand, or introduce alternative/renewable energy generation

7. Project implements unique and/or substantive workforce training practices.

**As of April 27, REDCo has not taken a position on whether to support Sections V-VIII.**